

### **REMARKS**

Claims 1-20 are currently pending in the application. Claim 1 is an independent claim, and claims 2-10 depend there from. Claim 11 is an independent claim, and claims 12-19 depend there from. Claim 20 is an independent claim. Claims 1, 7, 11, 13, 17, 18 and 20 are currently amended. Claims 6 and 16 are currently cancelled. Applicant respectfully requests that the application be reconsidered in view of the amendments set forth above and the following remarks.

In paragraph 2 on page 2 of the Office Action, independent claims 1, 11, and 20, and dependent claims 2-10 and 12-19 were rejected under 35 U.S.C. § 102(b) as being anticipated by Sedaros (U.S. Patent 6,004,259). The Applicant respectfully traverses the rejections, however, in order to advance prosecution in the application, the Applicant has amended claims 1, 11 and 20 and has cancelled dependent claims 6 and 16. The Applicant believes the amendments to claims 1, 11 and 20 and the cancellation of dependent claims 6 and 16 have indeed overcome the rejection under 35 U.S.C. § 102(b) and therefore respectfully requests that the rejection is withdrawn.

The Applicant sets forth in independent claim 1 a method for soothing or calming a child. The method may comprise, among other things, "determining from within said audio enabled toy, a playback operating mode based on said received triggering event."

Sedaros is different from the Applicant's independent claim 1. Sedaros at least fails to disclose "determining from within said audio enabled toy, a playback operating mode based on said received triggering event" as well as "selecting by said audio enabled toy, at least one sound that mimics a mother's sound based on said determined playback operating mode", as set forth in Applicant's amended independent claim 1. The Examiner stated in the first paragraph on page 3 of the Office Action that "the operating mode of Sedaros is that of a heartbeat and miscellaneous sounds captured when the mother pre-records into a microphone located on the device (col.3, lines 25-30) into memory (col. 1, lines 8-13)." However, Sedaros fails to teach or suggest determining a playback operating mode from one of a plurality of playback operating

modes, for example. Rather, Sedaros discloses a single operating mode, namely "playing back the heartbeat, recorded earlier by the mother." (Column 1, Lines 41-42). Additionally, Sedaros fails to teach or suggest selecting a sound based on the determined playback operating mode. Rather, Sedaros simply plays back whatever sound has been recorded for the single operating mode, without using any selection.

For at least the reasons set forth above, the Applicant respectfully asserts that claim 1 is allowable over Sedaros. The Applicants request that the rejection of claim 1 be withdrawn.

Because dependent claims 2-5 and 7-10 depend, directly or indirectly, from independent claim 1, and because claim 1 is allowable over Sedaros, the Applicant asserts that rejections of dependent claims 2-5 and 7-10 are now moot. Further, because dependent claim 6 is cancelled, the Applicant asserts that rejection of dependent claim 6 is now moot. The Applicant asserts that claims 2-5 and 7-10 are also allowable over Sedaros and requests that the rejections of claims 2-10 be withdrawn.

The Applicant sets forth in independent claim 11 a system embodied in a toy for soothing or calming a child. The system may comprise, among other things, "a playback operating mode determined by said processing circuit and based on said received triggering event."

Sedaros is different from the Applicant's independent claim 11. Sedaros at least fails to disclose "said processing circuit determines a playback operating mode based on said received triggering event" as well as "said processing circuit ... selects from within said audio enabled toy, at least one sound that mimics a mother's sound based on said determined playback operating mode" as set forth in Applicant's claim 11. The Examiner stated in the fourth paragraph on page 3 of the Office Action that "the operating mode of Sedaros is that of a heartbeat and miscellaneous sounds captured when the mother pre-records into a microphone located on the device (col.3, lines 25-30)." However, Sedaros fails to teach or suggest a processing circuit that determines a

playback operating mode from one of a plurality of playback operating modes, for example. Rather, Sedaros discloses a single operating mode, namely "playing back the heartbeat, recorded earlier by the mother." (Column 1, Lines 41-42). Additionally, Sedaros fails to teach or suggest a processing circuit that selects at least one sound that mimics a mother's sound based on the determined playback operating mode. Rather, Sedaros simply plays back whatever sound has been recorded for the single operating mode, without using any selection.

For at least the reasons set forth above, the Applicant respectfully asserts that claim 11 is allowable over Sedaros. The Applicants request that the rejection of claim 11 be withdrawn.

Because dependent claims 12-15 and 18-19 depend, directly or indirectly, from independent claim 11, and because claim 11 is allowable over Sedaros, the Applicant asserts that rejections of dependent claims 12-15 and 18-19 are now moot. Further, because dependent claims 16-17 are cancelled, the Applicant asserts that rejections of dependent claims 16-17 are now moot. The Applicant asserts that claims 12-15 and 18-19 are also allowable over Sedaros and requests that the rejections of claims 12-19 be withdrawn.

The Applicant sets forth in independent claim 20 a system embodied in a toy for soothing and calming a child. The system may comprise, among other things, "a mode control unit coupled to said processing circuit for determining a playback operating mode."

Sedaros is different from the Applicant's independent claim 20. Sedaros at least fails to disclose "a mode control unit coupled to said processing circuit for determining a playback operating mode" as set forth in Applicant's claim 20. Sedaros discloses "[a] switch S1 12 for manual control, if left on the On mode, the playback will be continuous, on the other hand, if switched On and back Off it will reset the circuit to playback for 6 minutes then stops in the absence of noise above the trigger level." (Column 2, Lines 45-49). The 6-minute duration and continuous duration for playing back the heartbeat

recorded earlier by the mother disclosed in Sedaros are different than the Applicant's playback operating mode, described in the specification at paragraph 28, for example, which states that "[t]he mode control unit 117 may comprise a multimodal switch that may be adapted to control or set one of several possible modes of operation. In one aspect of the invention, the possible modes of operation for the mode control unit 117 may include, but are not limited to, a decreasing heartbeat mode, an increasing heartbeat mode, a steady heartbeat mode and an other or miscellaneous sounds mode." (Paragraph 28). Sedaros fails to teach or suggest a mode control unit or determining a playback operating mode. Rather, Sedaros discloses a 6-minute duration and a continuous duration (Column 2, Lines 45-49) for a single operating mode, namely "playing back the heartbeat, recorded earlier by the mother." (Column 1, Lines 41-42).

For at least the reasons set forth above, the Applicant respectfully asserts that claim 20 is allowable over Sedaros. The Applicants request that the rejection of claim 20 be withdrawn.

Applicant reserves the right to argue additional reasons supporting the allowability of claims 1-20 should the need arise in the future.

Appl. No. 10/679,094  
Amdt. dated October 26, 2006  
Reply to Office Action of July 26, 2006

**CONCLUSION**

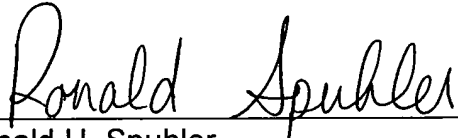
Based on at least the foregoing, Applicant believes that claims 1-20 are in condition for allowance.

The Commissioner is hereby authorized to charge additional fee(s) or credit overpayment(s) to the deposit account of McAndrews, Held & Malloy, Account No. 13-0017.

A Notice of Allowance is courteously solicited.

Date: October 26, 2006

Respectfully submitted,

  
\_\_\_\_\_  
Ronald H. Spuhler  
Reg. No. 52,245  
Attorney for Applicant

McAndrews, Held & Malloy, Ltd.  
500 W. Madison, 34<sup>th</sup> Floor  
Chicago, IL 60661  
312 775-8000